

INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
OFFICE OF CONSUMER PROTECTION SERVICES

Producer Licensing

Adopted Amendments: N.J.A.C. 11:17-1 through 3

Adopted Repeal: N.J.A.C. 11:17-3.7

Proposed: June 5, 2006 at 38 N.J.R. 2378(a)

Adopted: November 8, 2006 by Steven M. Goldman, Commissioner, Department of Banking and Insurance

Filed: November 9, 2006 as R. 2006 d. 429, **with substantive and technical changes** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 17:22A-26 et seq.

Effective Date: December 18, 2006

Expiration Date: October 10, 2008

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance (Department) timely received written comments from the following:

1. New Jersey Manufacturers Insurance Group;
2. Charles N. Carter;
3. The Geico Group of Companies;
4. The New Jersey Land Title Institute;
5. The Professional Insurance Agents of New Jersey;
6. The Professional School of Business;
7. Jeryl R. Swartley;
8. Frank Advice School;

9. American School of Business, attaching comments from John W. McKee; Richard Governali; Paul Bonelli; Joseph M. Wickham; Steve Weisman; Michael J. Piscopiello, and Mario V. Sicari;
10. The Independent Insurance Agents and Brokers of New Jersey;
11. Primerica Life Insurance Company;
12. The American Council of Life Insurers;
13. Mel Lissner; and
14. The New Jersey Association of Insurance and Financial Advisors

COMMENT: Several commenters, all of whom are education providers, opposed the proposed changes to pre-licensing education set forth in N.J.A.C. 11:17-3.4, specifically the reduction in the number of minimum course hours to 20 hours for all lines of authority, and the ability to take courses online. In general, the commenters expressed concern that the reduction in the number of pre-licensing education hours will reduce the ability of education providers to properly educate prospective licensees, resulting in the potential for less competent licensees and increasing the likelihood of fraudulent activity among producers. In addition, general concerns were expressed that online education does not provide the same depth and level of education as live instruction and thus such changes are inappropriate.

Several of the commenters generally stated that there is no requirement under the Gramm-Leach-Bliley Act (GLBA) to have uniform standards adopted by every state. New Jersey has already adopted producer license reciprocity, and the commenters believed that this is sufficient to comply with GLBA. Several of the commenters believed that adopting the standards proposed will merely result in the State adopting the “lowest common denominator,”

which the commenters believed is inappropriate and will ultimately harm the insurance consumers of New Jersey.

In addition to these general concerns, specific issues were raised as follows. One commenter stated that the rules do not specify whether the same subjects currently required are to be taught in a shorter period of time, nor do they indicate what subjects will not be contained on the licensing examination. If the State is mandating that the course material remain the same, but only the amount of time spent in the classroom be reduced, the commenters stated that more information should be provided by the Department. The commenter stated that guidance is needed for education providers to formulate the new pre-licensing courses and work to train potential licensees. In addition, the commenter stated that if submission and reapproval of revised pre-licensing courses is required, it is imperative that the Department provide immediate guidance so that the courses may be revised and approved prior to the January 1, 2007 effective date. In the alternative, the commenter stated that the Department should suspend the proposed requirements beyond January 1, 2007 and provide adequate time for the transition.

Several commenters noted that the Department recently increased the number of items that must be covered in pre-licensing courses and is now reducing the amount of time within which to teach these subjects. One commenter stated that the proposed changes only benefit the companies who sell policies, anyone who must finance the education of new producers, and the candidates themselves. This commenter and others stated that the Department should continue to require a number of course hours similar to those presently in use for each line, including the additional 15 hours for industry-wide laws and regulations.

One commenter, with respect to title insurance, stated that it has seen an increase in the number of students taking its pre-licensing course who have little, if any, experience or

background in the title industry. The commenter stated that the pre-licensing courses are viewed not as professional enhancement, but as vocational training. The commenter stated that even at 60 hours, a pre-licensing course alone is inadequate to provide a newcomer with more than a superficial understanding of title insurance or to prepare such a person to work with the consuming public as a title insurance producer.

Another commenter stated that less than four years ago, a property/casualty insurance license candidate had to successfully complete 140 hours of classroom, instructor-guided education. Under the proposed new rules, the same candidate would only need to complete 40 hours of training and could do that without the benefits of a live instructor and interactive classroom settings. The commenter believed that this will have a negative social impact, which the Department did not recognize in the Social Impact to the proposal. The commenter also stated that the economic benefits noted in the Economic Impact to the proposal do not appear to be “thought out.” This commenter believed that the Economic Impact statement that reads in part “... by providing the option for classroom instruction to be conducted via the internet rather than solely in a classroom ...” is misleading. The commenter stated that classroom instruction and Internet-based courses are two distinctly different things. The commenter stated that license candidates choosing the Internet option will not be receiving “classroom instruction” or the advantages it provides.

Several commenters noted that the New Jersey Insurance-Examination Content Outlines, effective June 3, 2003, increased the amount of information that must be taught, and that it is not feasible to teach such required information within the timeframes proposed to be prescribed.

One commenter stated that the rules and regulations information portion of the course outline is approximately 25 percent of the total course. The commenter questioned whether

educators should reduce the product knowledge time even more and still teach insurance laws. This commenter also believed that providing online courses as an option will increase competition, which “does increase costs.” This commenter also stated that with the reduction in hours, schools will have to reduce their fees to justify having the classroom hours cut in half. Teachers’ salaries will be reduced, or their jobs eliminated. The commenter stated that there will be a jobs impact on classroom instructors. The commenter stated that the “examination content outlines” based on the current number of pre-licensing course hours require the following number of topics to be presented: 119 topics for life producers; 136 topics for health producers; 116 topics for property producers; 165 topics for casualty producers. The commenter stated that since the number of hours for these courses is being reduced by approximately one-half, the Department should also reduce the State examination content by one-half as well.

Several commenters also stated that reducing the number of hours will make worse an already low pass ratio on State licensee exams.

One commenter also stated that there is a conflict of interest for an insurer to also be an education provider.

One commenter expressed concern with N.J.A.C. 11:17-3.2(a)7 as placing a higher standard on classroom providers. This rule requires classroom education providers to assure that certificates “accurately reflect the student’s attendance and performance.” The commenter stated that this places importance on classroom attendance and recordkeeping of attendance. The commenter stated that the Department is allowing self-study and online courses where no reasonable policing can exist.

RESPONSE: Upon review of the comments, the Department has determined not to change these provisions. The Department recognizes that there is no requirement under GLBA to have uniform standards adopted by every state. However, the Department believes that it is reasonable and appropriate to adopt a uniform system of state-based regulation. Every member of the NAIC adopted these uniform standards for resident producer licensing in December 2002. Maintaining uniform minimum requirements in all states and a uniform application process will help ensure that resident producers who seek non-resident status in another state meet standardized, industry-wide, minimum core qualifications. The uniform standards for pre-licensure education provide the minimum number of hours a producer must take in order to qualify to sit for an examination. Some commenters expressed concern that 20 hours would not be sufficient to teach the requirements for the examination. The Department notes that some states have no minimum pre-licensing education requirements. In addition, the Department notes, however, that applicants may supplement this instruction with their own home and self-study, online study or classroom study. Further, some applicants may come to the examination with more knowledge than others. Those that require more instruction may take more instruction. There is no prohibition against additional instruction being offered or taken. Again, the rules merely establish the minimum requirements in order to sit for the examination. The Department does not believe that the level of qualification will suffer because the Department is not altering the examination requirements. The same level of knowledge will continue to be required. This system provides more flexibility for those individuals who require less formal instruction to sit for the exam. The Department has established examination content for what it has determined are the core competencies required to be licensed and is not lowering the testing standards.

Similarly, the Department is not changing the examination outlines nor changing State-specific requirements. Again, the Department is providing flexibility to providers in order to enable them to tailor their courses in the way they determine will best equip their students to acquire the content knowledge required for those students. In the same way, education providers are free to tailor classes for those with some insurance knowledge, and those with little or no knowledge.

The Department also disagrees with the comments stating that allowing online study is inappropriate. Providing for online study merely recognizes educational tools and methods widely available to students currently taking courses in other contexts. Indeed, online degrees are offered from many universities. If an individual believes that he or she can better achieve the level of knowledge required to pass the test through online courses rather than through formal classroom instruction, the Department believes that this flexibility should be afforded. Ultimately, the level of knowledge and qualification will be determined through testing, as it has always been. Accordingly, the level of qualification of producers will not be reduced due to the availability of optional online pre-licensing education.

With respect to the comment that it is not feasible to teach the required information within the timeframes proposed to be prescribed, the Department does not agree. The Department believes that providers are more than capable of tailoring their courses in order to teach the required testing outline within the minimum times prescribed.

Regarding the comment whether educators should reduce the product knowledge time and concentrate on teaching insurance laws, the Department reiterates that the rules are designed to provide flexibility to insurance providers to tailor their courses to their students' needs.

As to whether teachers' salaries will be reduced and that competition actually increases costs, the Department believes that this is speculative and not supported by long-established economic theory. Competition is generally recognized as a means of stabilizing or reducing costs by creating efficiencies. The Department recognizes, however, that costs may increase to the extent competition adds value to the courses being taught. Regarding the concern about teachers' salaries, the Department reiterates that the rule does not mandate a maximum number of pre-licensing educational hours, but merely sets forth a minimum level in order to sit for an exam. As a result, this concern is largely speculative, as it is unknown whether the proposal will actually result in fewer course hours being taught or what the ultimate impact on salaries may be. The Department also believes that the basis for the number of topics cited by one commenter that are currently required (119 topics are currently required for life producers, 136 topics for health producers, etc.) is unclear. Nevertheless, as previously noted, the examination itself is not being changed.

With respect to the comment that there is a conflict of interest for an insurer to also be an education provider, the Department notes that insurers have never been prohibited from also being education providers and that this issue is not part of the proposed amendments. Consequently, it is outside the scope of the proposal.

Finally, regarding the concern that N.J.A.C. 11:17-3.2(a)7 places a higher standard on classroom providers and that the Department is allowing self-study and online courses where no reasonable policing can exist, the Department believes, as noted above, that it is reasonable and appropriate to allow self-study and online courses consistent with the education tools used in other contexts in this country. In addition, the Department notes that self-study and online

courses will still be reviewed by the Department, and will be required to demonstrate ways of assessing completion of the courses and provide for remediation where needed.

COMMENT: Several commenters generally supported the proposed changes with the goal of moving toward uniformity regarding the standards among the states.

RESPONSE: The Department appreciates the support of its proposal.

COMMENT: One commenter raised an issue regarding the two-year licensing term proposed in N.J.A.C. 11:17-2.1. The commenter stated that the proposed system will present challenges in tracking current producer status and in maintaining accurate licensing and continuing education records, particularly during the transition period. The commenter stated that the existing four-year licensing cycle allows sufficient time for licensees to meet their continuing education requirements. The commenter noted that even though the proposal would reduce the number of continuing education credits required per cycle, the timeframe for completion of such courses leaves much less room for flexibility. The commenter thus recommended that the duration of producer licenses remain four years.

RESPONSE: Upon review of the commenter's concern, the Department has determined not to change this provision. The purpose of this rule is to promote uniformity of licensing requirements throughout the country. Moreover, the goal of the rule is not to require all continuing education requirements to be met at the same time. The rule proposes to require one-half of the continuing education requirements be met over one-half of the license cycle. The

Department does not believe that this is unreasonable, especially in consideration of the flexibility afforded by the rules regarding the manner by which the continuing education credits may be acquired, that is, via classroom, seminars, online and self-study.

COMMENT: Several commenters expressed concern with the fee for approval of a continuing education course as set forth in N.J.A.C. 11:17-3.6(f)3. The commenters stated that the proposed \$20.00 fee for initial approval and then again for approval renewal every two years is unnecessary, particularly when the subject matter is likely to be the same or similar. One commenter recommended that there be a one-time filing fee, and that modules can be filed and used for a period of at least five or 10 years before renewal is required.

Another commenter suggested that the fee for renewal of a course, involving less work than initial approval, might be set at a lower level.

Another commenter stated that the additional time required to constantly have courses with different approval expiration dates reapproved in accordance with N.J.A.C. 11:17-3.6(f)6, along with the corresponding renewal fee, will lead to increased costs to consumers of these courses. The commenter stated that one of the purposes of the New Jersey Insurance Producer Licensing Act of 2001 is to “reduce the costs associated with the issuance and renewal of producer licenses.” The commenter stated that directly or indirectly increasing the costs of continuing education will increase the costs associated with the renewal of producer licenses.

The commenter also stated that the requirement could lead to a provider inadvertently failing to renew a course on time, leading to inconvenienced consumers who have taken the course only to find out that the course was not reapproved on time despite the fact the exact same course could have been offered just a few days earlier with an approval. The commenter also

stated that this will lead to additional work for the Department. The commenter further stated that if providers are required to have courses reapproved and pay for each approval, they will expect immediate approvals from the Department, which the commenter did not believe the Department would be able to do. The commenter believed that charging the \$20.00 renewal fee is nothing more than a “profit center” for the Department. The commenter stated that if the Department needs to increase revenues, it should increase the fee set forth in N.J.A.C. 11:17-3.1(e)4 to \$1,000.

RESPONSE: Upon review of the commenters’ concerns, the Department has determined that it is reasonable and appropriate to revise N.J.A.C. 11:17-3.6(f)6, regarding the renewal period and renewal fee for provider courses, to correspond to the providers’ approval term, which is four years, pursuant to N.J.A.C. 11:17-3.1(e)3. The Department has also determined that it is appropriate to reduce the fee to \$10.00 for renewal to better reflect the costs associated with the review of the renewal of courses. The Department, however, continues to believe that it is appropriate to require that approval of courses be renewed in order to ensure that course content is current. The Department believes, however, that extending the time for the approval of a course to coincide with the renewal of the provider’s license should address the commenters’ concerns regarding the additional burden on tracking courses and assuring they are renewed. Two years may be unnecessarily short and impose unnecessary burdens. Linking the time period for the renewal of an approved course to the renewal cycle of the approved provider maintains the original intent of the rule, that is, providing a finite time for the approval of courses while minimizing the burden on education providers.

Regarding the comment that the Department should not charge a renewal fee at all, and should increase the fee at N.J.A.C. 11:17-3.1(e)4 to \$1,000, the Department does not believe that this would be reasonable and appropriate. N.J.S.A. 17:22A-44 provides that the Commissioner of Banking and Insurance (Commissioner) shall, by rule, set reasonable, necessary and appropriate fees to be charged for processing documents required to be submitted under the statute. The Department believes that it is reasonable and appropriate that the fee charged be related to the service provided, in this case, the review of and renewal of an approved education course.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:17-3.6(g), which requires that continuing education providers report the completion of a continuing education course within five business days of course completion, rather than 30 days as is currently provided. The commenters believed that the five-day timeframe is unnecessarily restrictive and may result in increased administrative costs. One commenter suggested that 15 days would be more appropriate.

Another commenter stated that New York and Connecticut allow for 30 and 15 days respectively to report this information, and urged the Department to allow at least 15 days to file the report.

Another commenter suggested 15 to 20 days would be reasonable, while another commenter suggested 10 days.

RESPONSE: Upon review of the commenters' concerns, the Department agrees that five business days may be insufficient. Accordingly, the Department is changing the rule upon

adoption to provide 15 days to report the completion of a continuing education course. In addition, to afford additional flexibility, the Department is changing the rule upon adoption to confirm that this information may be submitted online.

COMMENT: Several commenters expressed concern with the fees for producer company appointments and terminations as set forth in N.J.A.C. 11:17-2.12.

One commenter requested that the Department clarify whether a “producer company appointment” is the same as the “Notice of Agency Contract” which the company files with the Department on behalf of its employees who are licensed producers. Several commenters stated that no fees have been charged in the past to file such contracts, and thus the proposed fees will be an added cost to its policyholders. In addition, several of the commenters stated that there is no statutory provision to require company appointments to be renewed, and thus questions the inclusion of the fee set forth in N.J.A.C. 11:17-2.12(a)17. One commenter stated that the company incurs licensing expenses on behalf of its licensed employee producers and, as a result of the proposed change, the company will now have to pay fees for appointments that have been in place for several years previously at no cost. In addition, the commenter stated that it will have to set up an appointment renewal process and incur the expense of maintaining the system with related staff to handle the process. The company questioned whether the benefit to consumers of these changes outweighs the additional costs that will ultimately be borne by its policyholders. The commenter suggested that if the Department adopts the proposed change, employees of licensed insurers and captive agents should be exempted from the renewal process, since there is only one insurer for whom these producers may be employed. The commenter further stated that if the Department does not adopt this suggestion, it should consider the

approach utilized by Maryland, where there is no appointment process, but the state gathers revenue through a calculation against new business written in the state once a year.

Another commenter requested confirmation that the fee pertains only to the appointment of the licensed insurance producer business entity, and not to each insurance producer working for that entity that the insurer recognizes as authorized to submit business on behalf of the insurance agency. The commenter stated that it would be unreasonably burdensome for a fee to be imposed for each producer.

Another commenter stated that the appointment fee should be the sole responsibility of the company and should not be permitted to be charged back to the licensed producer in any form. The commenter suggested that the following be added to N.J.A.C. 11:17-2.9(a)2 so that the last sentence reads as follows: “The fee set forth in N.J.A.C. 11:17-2.12 for each appointment (renewal or termination) shall be collected from the insurer and the insurer shall not charge the appointed business entity/producer for such fees.” (Underlined language is suggested to be added.) In addition, this commenter stated that the Department has indicated that only the business entity/licensed producer who is named in the contract and receiving the commission directly from the company is required to be appointed. The commenter stated that the Department has indicated that this applies for life, health or property/casualty appointments and contracts. The commenter stated that in the event of independent agencies who hold contracts with many companies, it has found that companies are insisting that the rules require that the agency entity and each person who works as an employee of that agency must be individually appointed. The commenter requested that the following be added to the rules upon adoption: “The company is only required to appoint the business entity/licensed insurance producer named in the contract between the company and licensed insurance producer who is receiving

commissions or other fees direct from the company. Employees of such business entities/licensed insurance producers who are not receiving direct commissions from the company are not required to be appointed.”

Another commenter stated that many producers have 15 carrier appointments. This would result in a \$375.00 additional expense per year, which it believed is unreasonable. The commenter thus requested that the appointment and renewal fees be deleted.

RESPONSE: With respect to whether a “producer company appointment” is the same as the “notice of agency contract,” the answer is yes. Regarding the concern that the Department has added a fee for appointments or renewal of appointments, as noted in the proposal Summary, and in response to a previous comment, N.J.S.A. 17:22A-44 provides that the Commissioner shall, by regulation, set reasonable, necessary and appropriate fees to be charged for filing agency appointments, as well as licensing insurance producers and processing any other filings or documents required to be submitted pursuant to the Act. Regarding the renewal of appointments and applicable fees, as also noted in the proposal Summary, most states that require appointment also require that such appointments be renewed and charge a fee for the necessary processing. In both cases, the insurer and producer may allocate this cost through the agreement between the parties. In addition, the Department has determined it is appropriate to require renewal of the appointment to ensure that all information regarding appointments is current.

Regarding the comment that a company will have to set up an appointment renewal process and incur the expense of maintaining the system, the Department notes that appointments and renewals will be done electronically via the National Insurance Producer Registry (NIPR)

accessible through the Department's website. The Department thus believes that any additional administrative costs should be minimal.

The Department also disagrees that producer-employees of licensed insurers and captive agents should be exempted from the appointment/renewal process since there is only one insurer for whom these producers may be employed. As noted previously, the goal of this requirement is to ensure that there is a current listing of all individuals who are appointed by the company. Adoption of the commenter's suggestion would thwart this intent.

Regarding the suggestion that the Department should consider the approach utilized by Maryland, where the state gathers revenue through a calculation against new business written in the state once a year, the Department reiterates that the approach utilized is recognized and consistent with N.J.S.A. 17:22A-44 regarding the collection of fees for services provided by the Department under the Act.

Regarding the request for confirmation that the fee pertains only to the appointment of the licensed insurance producer entity, and not to each insurance producer working for that entity, the Department notes that this would depend on how the appointment was made. The decision whether to appoint the business entity or each individual employee is up to the insurer. If the insurer only appoints the agency, that appointment would appoint all licensed producers in that agency. In addition, if the business entity agency is appointed, commissions would be paid in the entity's name. The insurer should decide which approach is best based on its circumstances.

Regarding the comment that the appointment fee should be the sole responsibility of the company and should not be permitted to be charged back to the licensed producer, the Department believes that no change is required. As the Department has consistently stated, and

as is reflected in the proposal Summary, the allocation of fees between an insurer and a producer is a matter of contractual negotiation between the parties. The Department does not believe that it is appropriate to become involved in these private contractual negotiations.

The Department also does not believe that it is necessary to add the suggested language that the company is only required to appoint the business entity or licensed insurance producer named in the contract between the company and licensed insurance producer. Individual company requirements for appointments is a contractual matter between the insurer and the agency.

COMMENT: One commenter expressed concern with N.J.A.C. 11:17-3.4(e), which would waive the education and testing requirements for a non-resident producer seeking to obtain a resident producer license with respect to title insurance. The commenter stated that few areas of law or insurance are as state-specific as title insurance. General familiarity with regulatory and title insurance concepts does not prepare a producer to make basic title underwriting determinations following the application of New Jersey real estate and title laws.

RESPONSE: Upon review of the comment, the Department has determined that no change is required. This provision tracks N.J.S.A. 17:22A-35, and thus reflects the statutory provisions regarding this issue.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:17-3.1(c)4, which requires a pre-license education provider to submit for approval its curriculum and a description of the methods it will use to determine that a student has mastered course content, both at the

time of initial approval and renewal of an education provider's license, as set forth in N.J.A.C. 11:17-3.1(e)4. One commenter supported this requirement. Other commenters stated that, although this may be accomplished by classroom education providers through in-person testing, it would be impossible for an Internet-based course provider to achieve. The commenter believed that there is no way to ensure that an online test is being completed by the same individual that took the course and there is no way to ensure that the individual is completing a test without assistance. One commenter noted that the State exam is not conducted online for this reason. Another commenter suggested that the statement indicate that the "provider or instructor must certify that the student has satisfied all course curriculum requirements as approved by the Department of Banking and Insurance."

Another commenter suggested the following language: "Copies of the course curriculum and a detailed description of the methods that the provider will use to document that the student has satisfactorily [mastered] completed the course content for each line of authority for which pre-licensing education shall be offered." (Suggested addition is underlined; suggested deletion is in brackets.)

RESPONSE: Upon review of the commenter's concerns, the Department believes that it is reasonable and appropriate to change the rules to use the term "completed" rather than "master." The Department believes that this should address many of the commenters' concerns. However, the Department believes that a certification should continue to be required and that the education provider is in a position to require a certification from the student that he or she is completing the course. The online provider thus can certify that in fact the course has been completed.

The Department also does not agree that the rules should be revised to provide that the provider or instructor must certify that the student has satisfied all course curriculum requirements as approved by the Department. The Department believes that revising the rules as set forth above addresses this issue.

COMMENT: Several commenters expressed concerns with N.J.A.C. 11:17-3.2(a)9 and (c)4, which require education providers to furnish a written statement concerning remedial measures to students at the time of registration or upon request; that the instructor verify completion of the course; and that, based upon the results of an objective evaluation, the instructor is satisfied that the student knows the material. One commenter stated that in the context of the reduction in the overall education standards, these requirements put education providers in the untenable, and potentially costly, position of being responsible to address and remediate an increased failure rate due to the Department's reduced education requirements.

Several commenters stated that an objective evaluation that the instructor is satisfied the student knows the material is not possible with online and self-study courses. One commenter stated that online and self-study, thus, should not be permitted.

Another commenter suggested that the reference to a statement by the instructor that the student "knows the material" in N.J.A.C. 11:17-3.2(c)4 should be eliminated and should be revised to read as follows: "A statement from the instructor, authorized personnel, or the insurance education director of the program verifying completion of the course."

RESPONSE: Regarding the comment expressing concern with N.J.A.C. 11:17-3.2(c)4, the Department notes that the requirement to provide a statement that the instructor is satisfied that

the student knows the material merely recodifies that requirement previously set forth in N.J.A.C. 11:17-3.2(c)6, which has been deleted with appropriate provisions reincorporated into N.J.A.C. 11:17-3.2(c)4. The Department believes that the requirements continue to be reasonable, appropriate and feasible. These comments appear to be related more to the general concern that online study is being permitted. The Department reiterates the response to a previous comment whereby the Department articulated its rationale why such online study is reasonable and appropriate.

The Department also does not believe that an objective evaluation that the instructor is satisfied that the student knows the material is not possible with online and self-study courses. An online course provider could establish a test whereby the student certifies online that he or she is the one taking the test. The online provider could rely on this certification in providing its certification.

Regarding the concerns about providing remediation under the new the pre-licensing education standards, as noted previously, the rules provide flexibility to providers to tailor the amount of instruction to the student's needs. In addition, remediation may take the form of permitting the student to take the course for free the next time it is offered, so that no additional cost would be imposed on the provider.

COMMENT: One commenter stated that N.J.A.C. 11:17-2.3(a)2 and 2.6(a)2, which require evidence that the applicant has passed the State licensing examination for the authority or authorities requested within one year of the examination date, is ambiguous as to how long a certificate evidencing completion of an approved course of pre-licensing education shall be valid. The commenter questioned whether course completion certificates would be accepted that

are more than one or two years old. The commenter stated that this issue was addressed in the past, but was inadvertently removed in 2002.

RESPONSE: The Department has determined, based on these comments, that the wording of the rule should be revised to change the phrase “within one year of the examination date” to read “not longer than one year prior to the application date.” The purpose of the rule was to ensure that an applicant apply for a license within one year of passing the examination test. It appears that the wording of the rule may be ambiguous. The Department is changing the rule upon adoption as set forth above to clarify its intent. Regarding the questions set forth by the commenter, the issue of how long a certificate evidencing completion of an approved course of pre-licensing education shall be valid is not addressed by these rules and was not addressed in the prior rule. The Department does not believe that this has been an issue, but if it does in fact become an issue in the future, the Department will propose appropriate amendments at that time.

COMMENT: One commenter requested clarification regarding N.J.A.C. 11:17-2.3(a)1, which provides requirements for first-time license applicants, including online submissions. One commenter believed that an electronic signature should be permitted on electronic applications, and suggested that N.J.A.C. 11:17-2.3(a)1 be revised to add the following sentence: “The Department shall accept electronic signatures for online submissions.”

RESPONSE: The Department agrees that electronic signatures are permitted, but does not believe that the rule needs to be revised to specifically provide that the Department shall accept

electronic signatures for online submission. The Department believes that this is self-evident, and in fact, this provision is part of the online form.

COMMENT: One commenter supported the biennial license term provided at N.J.A.C. 11:17-2.1 and the expiration dates provided therein. The commenter noted that this is similar to the New York Department of Insurance requirements and suggested that this Department look to the State of New York as a model for completing this transition.

RESPONSE: The Department appreciates the support of its proposal. The Department has reviewed the New York Department's notifications and will consider providing similar notices and educational information regarding these changes to help ensure a smooth transition to the new licensing requirements.

COMMENT: One commenter noted that N.J.A.C. 11:17-2.3(a)1 is proposed to be amended to provide that, where a non-resident applicant submits a copy of the application submitted to the home state, it must be accompanied by a statement certifying to the truthfulness and accuracy of all responses to the questions concerning the applicant's character and fitness for licensure as of the date of the submission. The commenter stated that this requires that the applicant certify that relevant information has not changed from the time the original application was filed in the applicant's home state to the time of application in this State. In addition, N.J.A.C. 11:17-2.3(a)5 and (b)4 are proposed to be amended to recognize electronic fingerprinting as acceptable fingerprint forms to reflect the current standards. The commenter supported these changes, but requested clarifications regarding the licensing requirements for non-residents. The commenter

stated that it appears that the requirements to obtain a non-resident license would be the submission of the application with the proposed certification and payment of the licensing fee. The commenter questioned the reasoning for the proposed certification given that the individual has already certified its accuracy in the original application. The commenter thus suggested that the Department only require a certification that there have been no changes to the application since the original application to the resident state.

RESPONSE: Upon review, the Department has determined not to substantively change this provision, but to clarify its intent upon adoption. The purpose of the provision is to ensure that there have not been any material changes in the information supplied on the prior application since the time it was originally filed in the resident state. The commenter suggested that the rule so state. This is the intent of the rule. However, in order to avoid any confusion, the Department is revising the rule upon adoption to clarify that the required certification relates to the accuracy of the information as of the date of the certification.

COMMENT: One commenter stated that the rules may be inconsistent with the NAIC standards in at least one regard. The NAIC standards provide that states with pre-licensing education should require 20 hours of such education per line of authority. The commenter noted, however, that the change to N.J.A.C. 11:17-3.4(c)1 provides that those seeking “life and/or variable authorities” complete 20 hours. The commenter stated that since life and variable products are two separate lines under the NAIC standards, those applying for both lines should be required to complete a total of 40 hours of pre-licensing education (20 hours in life and 20 hours in variable) to be consistent with the NAIC standards.

RESPONSE: Upon review, the Department has determined that no change is required. Under the uniform guidelines, the Department is permitted to waive pre-licensing education for variable products. The Department has determined that such a waiver is appropriate insofar as individuals selling variable products require licensure by appropriate securities regulatory officials. Accordingly, these individuals receive education on variable products as part of the licensure requirements for a securities license. The Department thus believes it would be redundant to require pre-licensing education for variable products.

COMMENT: One commenter suggested that the reference to a “criminal history request” in N.J.A.C. 11:17-2.4(b) be deleted since the fingerprint requirement makes such background reports superfluous.

RESPONSE: The Department agrees for the reasons expressed by the commenter. Accordingly, the rule has been changed upon adoption to reflect this change.

COMMENT: One commenter suggested that N.J.A.C. 11:17-2.6(a) be revised to clarify that submissions for additional authorities may be made by an authorized submitter. The commenter suggested the following change: “A currently licensed individual producer may obtain additional authorities as described in N.J.A.C. 11:17-2.2 by submitting a written request to the Department or by completing an online application, which may be submitted by an authorized submitter, and by providing the following: ...” (Suggested additional language is underlined.)

RESPONSE: The Department agrees for the reasons suggested by the commenter. Accordingly, the rule has been changed upon adoption to reflect this change.

COMMENT: Several commenters stated that there appears to be an error in N.J.A.C. 11:17-3.4(a) in that it includes reference to “classroom” instruction. The commenters believed this contradicts other sections that allow for online and self-study courses.

RESPONSE: The Department agrees and has revised the rule upon adoption to correct this wording error.

COMMENT: One commenter noted that N.J.A.C. 11:17-3.2(a)8 continues to require education providers to “maintain proof that a course final examination was passed, if applicable.” The commenter believed that this has always been applicable for any pre-licensing course. The commenter stated that the Department should make clear the exact requirements of this rule in view of other proposed changes.

RESPONSE: These requirements apply, in general, both to pre-licensing and continuing education. However, final examinations are not required for classroom continuing education instruction, so this provision does not apply to this type of education.

COMMENT: One commenter noted that the changes in N.J.A.C. 11:17-3.4(b) require that what was formerly 15 hours of course content, including core curriculum regarding the regulation of the insurance industry and fraud prevention, now be part of all individual licensing courses. The

commenter stated that this material is extensive and important in order for new producers to be knowledgeable. The commenter stated that condensing this material into 20 hours per authority is not reasonable, and will require duplication of topics when a license candidate wishes to be licensed in multiple authorities. The commenter believed that the present rule is much more reasonable and allows a more efficient use of course hours.

RESPONSE: As set forth in a Response to a previous Comment, the Department believes that the change in course hours is reasonable, appropriate and effectuates the goal of uniformity to provide a uniform system of state-based regulation. Further, as noted previously, providers may rearrange their course content in such a way that the State-specific requirements are still done optionally or as a refresher depending on how much knowledge the individual needs. Again, the rule provides flexibility to providers in establishing their courses.

COMMENT: One commenter stated that N.J.A.C. 11:17-3.4(c) should make clear that the pre-licensing education courses must be completed with a school approved by the New Jersey Department of Banking and Insurance.

RESPONSE: The Department believes that this has been self-evident. However, to make clear that pre-license application courses must be completed with a school approved by the Department, the Department will revise the rules upon adoption. The Department believes that it would be more appropriate to put this change in N.J.A.C. 11:17-3.4(a) as a matter of form.

COMMENT: One commenter, in connection with N.J.A.C. 11:17-3.5(b)2, which addresses how examinations shall be administered, requested that the Department ensure that examination vendors reasonably accommodate the needs of New Jersey test-takers. Those who register for an examination upon completing a pre-licensure course should be able to sit promptly for the test. In addition, an exam schedule should be available as far in advance as possible, so that applicants can take the schedule into account when planning to take the pre-licensing coursework.

RESPONSE: The Department contracts with a vendor to administer the examination and makes its requirements known in the contract. The Department is aware of the need to accommodate test takers, and has endeavored to and will continue to do so.

COMMENT: One commenter suggested that N.J.A.C. 11:17-3.5(b)10i be revised to also collect the candidate's date of registration, date of examination and student demographic information.

RESPONSE: This comment is outside the scope of the proposal. The requirements in N.J.A.C. 11:17-3.5(b)10i are not proposed to be changed. The Department receives examination dates and has demographic information such as name and address.

COMMENT: One commenter suggested, with respect to N.J.A.C. 11:17-3.6(k), where credits have not been recorded for a certified continuing education course, that the Department continue to provide some form of reminder to licensees that their renewal dates are approaching. The commenter noted that any expense to the Department could be offset by use of the new appointment fee revenue.

RESPONSE: Upon review, the Department has determined that no change is required. The contract vendor provides transcripts online that can be viewed by the licensee at any time. The notice to renew is issued 60 days prior to expiration, which affords producers sufficient time to verify that their continuing education requirements have been satisfied.

COMMENT: One commenter requested clarification of the definition of “car rental insurance” in N.J.A.C. 11:17-1.2. The commenter stated that the definition includes “liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operational use of the rental car during the rental period.” The commenter questioned whether collision damage waiver coverage would be included as a liability insurance protecting the renter, or would it only include bodily injury and property damage to others. The commenter believed that the definition should include collision damage waiver coverage, and that persons selling this coverage should be required to hold a limited lines authority license.

RESPONSE: Upon review, the Department has determined that no change is required. This definition is consistent with the NAIC uniform definition. The Department historically has not considered collision damage waiver provisions in car rental agreements to be the business of insurance. Collision damage waivers constitute an allocation of risk in a transaction among the parties to the transaction. The Department has not construed such allocation of risk among parties to a transaction to be the business of insurance. The Department has determined that, where the transaction is directly related between an entity and the individual, these types of agreements do not constitute the transaction of insurance in this State.

COMMENT: One commenter stated that the term “designated licensed responsible producer” is used in the rules but is not defined. The commenter suggested that a definition be included. The commenter also noted that the Department has added the term “authorized submitter” when relating to electronic online submissions. The commenter stated that if the Department is using the term “designated licensed responsible producer” to mean that if a submission for a license or license renewal is done on paper, it may be done by such a person, then the commenter believed that the “authorized submitter” also should be a licensed producer.

RESPONSE: Upon review, the Department has determined that no change is required. The designated licensed responsible producer is different than an authorized submitter. The term designated licensed responsible producer reflects N.J.S.A. 17:22A-32b(2), which addresses requirements related to business entities acting as an insurance producer. A designated licensed responsible producer is the producer responsible for the business entity’s compliance with the insurance laws, rules and regulations of this State designated by the business entity. An “authorized submitter” refers only to an individual authorized to perform an online transmission. Accordingly, an authorized submitter is not required to be a licensed producer.

COMMENT: One commenter stated that, with the expiration date being removed from the license under N.J.A.C. 11:17-2.1(b), it would be helpful to producers to have the first license issued showing the actual expiration date and, thereafter, licenses could state “and will renew every two years thereafter if the renewal fees are paid.”

RESPONSE: The Department intends to provide the expiration date on the first license issued. However, the Department does not believe that the rule needs to be changed and that such a change may lead to further confusion.

COMMENT: One commenter noted that N.J.A.C. 11:17-2.7(f)2 requires that the producer maintain proof of notification of any change of business mailing or location address, resident address, phone numbers and e-mail addresses for five years until receipt of a license or other documentation from the Department. The commenter requested clarification whether the Department intends to mail a revised license or documentation within a specific timeframe and recommended that the Department either mail such a document or have the computer system updated within 90 days from the date of receipt of the notice from the producer. The commenter stated that, since the producer could be subject to fines if the change is not made by the Department, there should be a prompt update of the information.

The commenter also stated that this rule relates to legal name, trade names and business names. The commenter stated that there have been problems with producers securing a non-resident license in other states due to the New Jersey license not showing both the trade name and the legal entity name. While the website producer search appears to show either name and both names appear on the screen with the license authorities, both names do not appear when the screen is printed. Since many companies refuse to use the online verification system and require that producers print and submit such documentation on paper, the commenter stated that the Department should maintain the records in such a manner that full producer licensee information appears on the paper license and can be printed from the online certificate.

RESPONSE: Upon review, the Department has determined that no change is required. The producer licensing system allows for the printing of a new license within one day of the input of an address change. At the present time, the system does not show trade names on the license. The Department's experience has been that insurers recognize that online information on the Department's website is more current than that on paper licenses. However, the Department will provide certified information if requested.

COMMENT: One commenter noted that N.J.A.C. 11:17-3.2(d) sets forth the requirement that the provider issue a certificate to the student verifying completion of a continuing education course, and that the certificate may be provided by electronic means. The commenter is concerned that the requirement for a signature may be difficult if the certificate will be issued electronically. Currently, certificates can be printed from the Promissor site and it would be efficient and timely to simply print them into an e-mail and forward same to the student. The commenter stated, however, that it does not appear that the Promissor program currently has the ability to include a "signature." The commenter thus suggested that N.J.A.C. 11:17-3.2(d) be amended to read: "The signature or other electronically printed name of the course instructor or authorized insurance education director of the approved education provider." (Suggested additional language is underlined.)

RESPONSE: The Department agrees that this issue should be addressed for the reasons suggested by the commenter. However, the Department does not believe it is appropriate to use the phrase "or other electronically printed name" in that it would not provide the certification sought under the rule. The Department believes that this issue can be addressed by revising the

rule to provide “or other verification that the certificate was issued by an approved education provider.” The rule has been changed upon adoption to reflect this change.

COMMENT: One commenter noted that N.J.A.C. 11:17-3.4(c)3 continues to include a requirement to cover health insurance under property authority. The commenter did not believe that health insurance should be part of the property authority. If the Department believes that it is necessary that a licensed producer understand health insurance as it compares to workers’ compensation insurance, the commenter believed that it should be moved to the casualty authority.

RESPONSE: The Department agrees for the reasons expressed by the commenter. Accordingly, this change has been made upon adoption.

COMMENT: One commenter noted that N.J.A.C. 11:17-3.4(g)5, 6 and 7 provide exemptions from taking the pre-licensing education course for persons holding certain designations. The commenter believed that those holding the Accredited Customer Service Representative (ACSR) designation, which this commenter issues in partnership with the Insurance Institute of America, should be exempt from pre-licensing education as follows: ACSR Life and Health Designation should exempt a student from pre-licensing education for the life and health authority; ACSR Personal Lines Designation should exempt the student from pre-licensing education for the personal lines authority and the property and casualty authorities; and the ACSR Commercial Lines Designation should exempt the student from the pre-licensing education for the property and casualty authorities.

RESPONSE: Upon review, the Department has determined that no change is required. The listing of designations to be exempted from the pre-licensing education requirement reflects the NAIC uniform standards. N.J.A.C. 11:17-3.4(g) provides that the Commissioner may grant a waiver based upon additional professional designations upon finding that the education necessary for the designation satisfies the program of study required for pre-licensing education in the applicable line of authority. Accordingly, the commenter may wish to submit information for the Department's review with its suggestion to have those additional designations considered for the waivers identified in the comment.

COMMENT: One commenter suggested that the Department allow insurance education providers to submit courses for continuing education approval electronically, with payment of the \$20.00 processing fee made by credit card. Since the Department appears to be moving toward greater use of electronic online submissions, the commenter believed it would be logical for the Department to use this method for accepting course submissions.

RESPONSE: The Department currently does not have this online capability. However, the Department continues to utilize online technology as much as possible to increase efficiency.

COMMENT: One commenter noted that under N.J.A.C 11:17-3.4(c), the producer applying for property coverage must be familiar with flood insurance. The commenter stated that it teaches a continuing education course on flood insurance, and can only give an overview of the requirements and policies during the three-hour continuing education course. The commenter

stated that to prepare a licensing student to write flood coverage with any level of expertise would require a minimum of six hours or more of study. The commenter questioned whether it should present the rest of the course for all other insurance topics in the remaining 14 hours.

Another commenter requested clarification that the continuing education flood course requirement referenced in N.J.A.C. 11:17-3.6(a)3 applies only one time, that being upon the first license renewal that occurs after January 1, 2007. The commenter also requested that the Department confirm that the three-credit hour course for flood is included as part of the 24 credit hours required to renew a license, and not in addition to the 24 credit hours.

RESPONSE: Upon review, the Department has determined that no change is required. The purpose of the pre-licensing education requirement related to flood insurance is to help ensure that there is some general knowledge of flood insurance if the producer sells such coverage. Additional detailed knowledge may be provided by the insurer or through other means. The time credited of three hours is part of the 24 credit hours of continuing education required to renew a license, and not in addition to the 24 credit hours. This complies with the minimum training standards established by Section 207 of the Flood Insurance Reform Act of 2004, Pub. L. 108-264 (Flood Act). The requirement must be satisfied by the time of the first license renewal after January 1, 2007 for persons initially licensed after that date, and by the first renewal after the initial renewal subsequent to January 1, 2007 for persons who were licensed before January 1, 2007.

COMMENT: One commenter stated that language should be added to N.J.A.C. 11:17-2.7(f)2 as a matter of form. This rule provides that, in addition to notifying the Department of address

changes, licensees should also provide notice of phone number and e-mail address changes. Licensees must also maintain proof of such notification for five years “or until receipt of a license or other documentation from the Department showing the new address.” Since licensees will have to provide phone number and e-mail address changes, the documents from the Department would presumably show not just the new address, but also the new phone number and e-mail address. Accordingly, the quoted phrase above should be amended to state “or until receipt of a license or other documentation from the Department showing the new address, phone number or e-mail address.” (Suggested additional language is underlined.)

RESPONSE: Upon review, the Department has determined that no change is necessary. Licenses will not show any changes in phone number or e-mail address. As the Department moves to online transactions on a more regular basis for these changes, electronic verification of the changes will then be available.

COMMENT: One commenter stated that under N.J.A.C. 11:17-3.6(a)3 any producer “who writes flood insurance” holding a property authority, must complete a three-credit-hour flood insurance continuing education course prior to the first renewal of a producer’s initial license issued after January 1, 2007, or prior to the first renewal after the initial renewal of a license after January 1, 2007. The commenter believed that all producers who hold a property authority or a personal lines authority should be required to take the three-credit-hour flood insurance continuing education course. Requiring only those producers who recommend and write flood insurance for consumers to take the course does not address the fact that anyone writing personal lines or commercial property insurance should understand the risk of flood, the exclusions in

property lines policies relating to flood exposures, the availability of flood insurance and the coverage provided under the flood insurance program. The commenter recommended that the rule be revised to require that all producers holding property lines authority or personal lines authority take the three-credit-hour course in flood insurance.

In addition, the commenter stated that if the Department is proposing under N.J.A.C. 11:17-3.6(a)2 that there will not be a requirement for a producer to complete continuing education during the first initial renewal after January 1, 2007 if that license period is less than 24 months, the wording should be revised or a large group of producers with their first license period of less than 24 months would not be required to take any flood insurance course at all. The commenter recommended that N.J.A.C. 11:17-3.6(a)3 be revised to read: “With respect only to the first renewal following the initial issuance of a license or the initial renewal of a 24 month or longer license after January 1, 2007, no resident individual insurance producer with property or personal lines authority shall be renewed unless the renewal applicant demonstrates that, as part of their total continuing education obligation as set forth above, he or she has completed a three credit hour approved course related to flood insurance and the National Flood Insurance Program during the previous licensed term.”

RESPONSE: Regarding the suggestion that all producers who hold property authority or personal lines authority should be required to take three credit hours of continuing education in flood insurance, the Department notes that the requirement related to continuing education for flood insurance was designed to reflect the requirements established by the Federal Emergency Management Administration (FEMA) under the Flood Act related to an insurance producer who sells flood insurance. The requirements under FEMA do not apply to insurers who do not sell

flood. Accordingly, to ensure consistency with these requirements, the rules do not require continuing education in flood insurance for those that do not write flood insurance.

The Department agrees with the commenter that the wording under N.J.A.C. 11:17-3.6(a)2 does not reflect the general intent of the rule and could provide an unintended “loophole” where a producer whose license term during the transition period was less than 24 months would not be required to take any continuing education courses. Accordingly, the Department is revising N.J.A.C. 11:17-3.6(a)2 upon adoption to refer to the transition term as described in N.J.A.C. 11:17-2.1(b). In addition, the reference to N.J.A.C. 11:17B-2.1(b) is revised to refer to N.J.A.C. 11:17-2.1(b), to reflect the proper citation of the rule. The intent of the rule is to ensure that continuing education is required even if the license term during the transition period is less than 24 months. The Department intended to provide that continuing education courses are required by the first renewal after the renewal that initially occurs after January 1, 2007. For example, if a producer renews January 31, 2007 and has a two-year license with a birth month of December, the producer would renew again in December 2008 and thus would need to complete the 24 credit hour continuing education requirement by December 2008.

COMMENT: Several commenters supported the change to N.J.A.C. 11:17-3.6(a), which removes the requirement that 24 of the continuing education credits be in approved courses in the authorities for which the producer is licensed. The commenters stated that the present requirement has created much confusion for producers and courses for some authorities are difficult for producers to find. Another commenter noted that there is a discrepancy in the rule in that in the first paragraph, it first states that six of the 48 total credits must be in insurance fraud or ethics. In N.J.A.C. 11:17-3.6(a)2, the rule provides that a four-year producer license will not

be renewed unless the producer has completed six credits in ethics. Since many producers are currently mid-term on their four-year license, and they have been taking the six credits in either fraud or ethics, the commenter requested that the Department change the rule to read "... six of which shall have been in approved courses related to professional ethics or fraud."

RESPONSE: The Department agrees that this was an error in not reiterating the language related to the four-year license term that will continue during the transition period regarding continuing education in fraud and professional ethics. Accordingly, the Department is changing the rule upon adoption to refer to professional ethics and fraud related to the prior license term to reflect the requirements currently required.

COMMENT: Several commenters raised issues regarding N.J.A.C. 11:17-3.6(a)1 and 2. Several commenters questioned whether N.J.A.C. 11:17-3.6(a)1 was intended to read "... three of which shall have been in approved courses related to insurance fraud, professional ethics or any other subject matter required by the Commissioner for the protection of consumers." One commenter raised the same question regarding N.J.A.C. 11:17-3.6(a)2.

One commenter noted that under N.J.A.C. 11:17-3.6(a)1, licenses renewed after January 1, 2007 will be required to have 24 credit hours of approved continuing education courses during the previous licensing term, "three of which shall have been in approved courses related to professional ethics." The commenter noted that under N.J.A.C. 11:17-3.6(a)2 during the transition period from a four-year license to a two-year license, if the term of the expiring license was four years, in order to qualify for renewal a producer must demonstrate completion of 48 hours of continuing education during the prior license term, "six of which shall have been in

approved courses related to professional ethics.” Similar to the Comment above, the commenter was unclear as to whether the reference to “professional ethics” means the same thing as “insurance fraud, professional ethics or any other subject matter ...” used in subsection (a). If not, the commenter questioned whether “professional ethics” courses include an insurance fraud component. In any event, as a matter of form, the commenter suggested that N.J.A.C. 11:17-3.6(a) and (a)2 should use the same terminology when referring to the six credits of “professional ethics” since they refer to the same requirement for four-year licenses.

RESPONSE: As noted in response to the previous Comment, with respect to renewal of a four-year license, the amount of continuing education credits are six in fraud or professional ethics, as is currently required under the rules prior to the amendments. For renewal of a two-year license, or a transition period license with a term of less than two years, the new requirement is three credit hours in ethics. As noted above, the rules have been changed upon adoption to reflect this clarification.

COMMENT: One commenter noted that the Department removed the requirement that 24 continuing education credits be in approved courses in authorities for which the producer is licensed. The commenter requested clarification that a licensed producer may not fulfill the requirement by taking any continuing education courses that do not relate to the authority for which the producer is licensed. For example, the commenter questioned whether a producer licensed with only life authority may take approved continuing education courses relating to property insurance and still satisfy the continuing education requirement.

RESPONSE: The Department recognizes that this requirement has been deleted, and that a producer licensed with only life authority may take approved continuing education courses related to property insurance and still satisfy the continuing education requirement. This reflects the uniform standards, which do not require that a producer take continuing education courses that only relate to the authority for which the producer is licensed.

COMMENT: One commenter noted that N.J.A.C. 11:17-3.6(a)2 discusses the continuing education requirements during the transition period. The rule provides that if the term of the expiring license was four years, 48 hours of continuing education credits are required. If the term of the expiring license was two years or more, 24 hours is required. The commenter presumed that if the expiring is less than two years, no continuing education is required and questioned whether this is correct.

The commenter also stated that the reference to N.J.A.C. 11:17B-2.1(b) should be N.J.A.C. 11:17-2.1(b).

RESPONSE: These issues were addressed in a Response to a previous Comment and changes have been made to clarify the intent of the rule.

COMMENT: One commenter stated that it recognized that the three continuing education credits in ethics is a requirement in the Uniform Resident Licensing Standards. The commenter, however, urged the Department to require any vendor tracking continuing education credits to indicate in their online or paper listing of credits that the course is an approved ethics course.

RESPONSE: The Department is working with the contract vendor to assign course codes to distinguish ethics and flood courses.

COMMENT: One commenter stated that under N.J.A.C 11:17-3.6(a)2, during the transitional period from four-year licenses to two-year licenses expiring with the birth month, if the license was for two years or longer, the producer must have the 24 credit hours to renew their license. The commenter requested clarification relating to those licenses which may be issued for a period of less than two years due to the birth month of the producer. The commenter questioned whether it is the intent of the Department to not require any continuing education during that shorter term license period, and if so, questioned whether New Jersey-licensed resident producers who hold non-resident license renewals from other states will have trouble renewing those licenses since they would not be subject to any continuing education requirements during that period of time.

RESPONSE: The Department addressed this issue in a Response to a previous Comment.

COMMENT: One commenter objected to the exemption from pre-licensing education of individuals who hold various designations as set forth in N.J.A.C. 11:17-3.4(g). The commenter referenced N.J.A.C. 11:17-3.7, which is proposed to be deleted. Generally, the commenter objected to the following designations as being exempt, in that they do not cover policies or forms and there is no discussion of New Jersey law: CPCU; CLU; CEBS; ChFC; CFP; LUTC; RHU; REBC; AIA; CIC; and ARM. The commenter stated that these designations exist for licensees to broaden their knowledge base. Without a previous licensing course to show how the

actual coverage would be obtained through a policy contract, the commenter believed that such knowledge would be useless.

RESPONSE: Upon review, the Department has determined that no change is required. The list of designations are those adopted under the uniform standards adopted by the NAIC. The Department notes that these designations only exempt a producer from mandatory pre-licensing education. The applicant still must possess the requisite knowledge to pass the licensing examination.

#### Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and repeal are not subject to any Federal requirements or standards. Although GLBA provides for ramifications if states do not adopt uniform standards, specific licensing standards are not established under any Federal law.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

## SUBCHAPTER 2. LICENSING RULES

## 11:17-2.3 Application filing requirements for initial licenses

(a) Requirements for a first time applicant for an individual license are as follows:

1. A properly completed application, in a form, including electronic online submissions, approved by the Department or the current version of the NAIC uniform application for individual producers in effect at the time of application, requesting issuance of an insurance producer license with one or more authorities, which shall contain the applicant's legal name, home address, date of birth, social security number, business mailing and location address, business trade name, if any, and responses to questions concerning the applicant's character and fitness for licensing. The application must be signed, dated and certified to be correct by the applicant or, in electronic online submissions, by the authorized submitter. In lieu of the NAIC uniform application, a nonresident applicant may submit a copy of the application for licensure submitted to the home state with a statement certifying to the truthfulness and accuracy of all responses to the questions concerning the applicant's character and fitness for licensure as of the date of the submission **\*of the certification\***;

2. If a resident, when required, a certificate evidencing completion of an approved course of prelicensing education or a certificate evidencing waiver of that requirement; and a certificate evidencing that the applicant has passed the State licensing examination for the authority or authorities requested **\*[within one year of the examination]\* \*not longer than one year prior to the application\*** date, or a certificate evidencing waiver of the examination requirement pursuant to N.J.S.A. 17:22A-35;

3. – 6. (No change from proposal.)

(b) - (c) (No change from proposal.)

11:17-2.4 Temporary work authority; change in residence status

(a) (No change from proposal.)

(b) A nonresident licensee, upon moving his or her residence or primary place of business into the State of New Jersey and requesting resident status in New Jersey, shall within 30 days thereof notify the Department of his or her change of address and contact information and, within 90 days of change in resident status in the prior state, notify the Department of the request to qualify as a resident insurance producer in New Jersey. The licensee shall submit completed \*[criminal history requests and]\* fingerprint forms in a format prescribed by the Department, including electronic fingerprinting. Upon receipt of this information, the licensee's status shall be changed from nonresident to resident.

11:17-2.6 Additional authorities

(a) A currently licensed individual producer may obtain additional authorities as described in N.J.A.C. 11:17-2.2 by submitting a written request to the Department or by completing an online application, **\*which may be submitted by an authorized submitter,\*** and by providing the following:

1. (No change from proposal.)

2. If a resident, a certificate evidencing completion of an approved course of precensing education, if required, or a certificate evidencing waiver of this requirement, and a certificate evidencing that the applicant has passed the State licensing examination for the

authority or authorities requested \*[within one year of the examination]\* **\*not longer than one year prior to the application\*** date, or a certificate evidencing waiver of this requirement;

3. - 4. (No change from proposal.)

(b) (No change from proposal.)

### SUBCHAPTER 3. PROFESSIONAL QUALIFICATIONS

#### 11:17-3.1 Approval of insurance education program

(a) – (b) (No change from proposal.)

(c) Insurance education providers seeking approval to teach courses of prelicensing education shall also provide:

1. - 3. (No change from proposal.)

4. Copies of the course curriculum and a detailed description of the methods that the provider will use to document that the student has satisfactorily \*[mastered]\* **\*completed\*** the course content for each line of authority for which pre-licensing education shall be offered.

(d) (No change.)

(e) Applications for program approval shall be reviewed to determine compliance with the requirements prescribed in this subchapter. An applicant shall supply such additional information or documentation as may be required by the Department to determine whether such requirements are met.

1. – 3. (No change.)

4. At least 10 days prior to the renewal date, the provider's insurance education director shall submit a properly completed renewal application; and, if offering prelicensing education, copies of the course curriculum and a detailed description of the methods that the provider will use to document that the student has satisfactorily \*[mastered]\* **\*completed\*** the course content for each line of authority for which pre-licensing education is offered; and the \$300.00 renewal fee. Applications for renewal shall be reviewed by the Department in accordance with the procedures established in this section for new insurance education provider approval. Failure to submit the renewal application for receipt by the date of expiration shall be deemed to establish that the insurance education provider approval has expired, and the provider is not thereafter authorized to teach or offer insurance courses to satisfy professional qualification requirements for prelicensing or continuing education for producers.

#### 11:17-3.2 Insurance education provider duties and requirements

(a) - (c) (No change from proposal.)

(d) An approved insurance education program shall issue to each student who has successfully completed a continuing education course a certificate verifying completion of the course. The certificate may be provided by electronic means and shall contain the following:

1. - 4. (No change from proposal.)

5. The signature of the course instructor or authorized insurance education director of the approved education provider **\*. or other verification that the certificate was issued by an approved education provider\***.

#### 11:17-3.4 Prelicensing education

(a) Except as provided in (e) through (g) below, each applicant for a resident insurance producer's license that is not solely for a limited line product shall pass a course of prelicensing education **\*offered by a provider approved by the Department\*** with the appropriate number of hours of \*[classroom]\* instruction described in (b) and (c) below. All changes in the appropriate number of hours for prelicensing education shall become effective as of January 1, 2007.

(b) (No change from proposal.)

(c) Prior to being admitted to the State licensing examination to obtain a particular producer license authority, an applicant shall complete a course of prelicensing education for the specific authority or authorities with the minimum course hours as follows:

1. - 2. (No change from proposal.)

3. Property authority, for a total of 20 hours:

i. (No change.)

\*[ii. Health insurance concepts;]\*

\*[iii.]\* **\*ii.\*** Flood insurance and the National Flood Insurance Program;

\*[iv.]\* **\*iii.\*** (No change in text.)

4. - 6. (No change from proposal.)

(d) - (k) (No change from proposal.)

11:17-3.6 Continuing education

(a) For licenses issued for a four-year term, no resident individual insurance producer licensed with life, accident and health or sickness, property, casualty, surplus lines, title, variable life and variable annuity or personal lines authority shall be renewed unless the renewal applicant demonstrates that he or she has completed 48 credit hours of approved continuing education courses during the previous four years, six of which shall be in approved courses related to insurance fraud, professional ethics or any other subject matter required by the Commissioner for the protection of consumers. Producers licensed as of November 4, 2002 shall have until the second renewal following November 4, 2002 to comply with the requirement to obtain six credits in approved courses related to insurance fraud, professional ethics or any other subject matter required by the Commissioner for the protection of consumers.

1. (No change from proposal.)

2. During the transition period from four-year license terms to two-year license terms based upon the individual producer's date of birth as set forth in N.J.A.C. 11:17\*[B]\*-2.1(b), if the term of their expiring license was four years, in order to qualify for renewal, a resident individual producer licensee shall demonstrate that he or she has completed 48 hours of continuing education credits during the prior license term, six of which shall have been in approved courses related to professional ethics **\*or fraud\***. If the term of their expiring license was two years or \*[longer]\* **\*is a transitional term\*** as described in N.J.A.C. **\*[11:17B]\*** **\*11:17\*-2.1(b)**, in order to qualify for renewal, such a licensee shall demonstrate that he or she has completed 24 credit hours of continuing education courses during the previous license term, three of which shall have been in approved courses related to professional ethics.

3. (No change from proposal.)

(b) – (e) (No change from proposal.)

(f) Approved insurance education providers shall submit courses for approval by the Department at least 30 days prior to the date the course is to begin. This 30-day requirement may be waived upon a showing by the program of unusual circumstances that require immediate action:

1. – 5. (No change from proposal.)

6. Effective January 1, 2007, courses approved pursuant to this subsection shall be approved for a period of \*[two years from the approval date of the course]\* **\*time that shall expire at the time that the education provider’s approval expires pursuant to N.J.A.C. 11:17-3.1(e)3\***. If the provider wishes to continue to use the course following expiration, it must submit a request to renew the approval of the course in a format prescribed by the Department and pay a renewal fee of \*[\$20.00]\* **\*\$10.00\***. The Commissioner may determine the billing and collection format for periodic collection of course approval renewal processing fees from providers.

(g) The insurance education director or authorized personnel for an approved insurance education provider shall report the names and producer license reference number of those persons completing each continuing education course within \*[five business]\* **15\*** days of course completion or certification of continuing education credits, whichever is later **\*, either in hard copy or through electronic submission\***. The instructor teaching the course may be deemed to have completed it for the purpose of securing continuing education credit. Instructors may only receive credit once for teaching any one approved course once during each license cycle. The report shall be made to the Department, or its designee, in a format prescribed by the Department, and shall include the following information:

1. – 3. (No change from proposal.)

(h) - (l) (No change from proposal.)

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